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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q54532

Jorg SCHABERNACK, et al.

Appln. No.: 09/328,893

Group Art Unit: 2155

Confirmation No.: 7430

Examiner: Duong, Oanh L.

Filed: June 09, 1999

For: MANAGEMENT OF A NETWORK ELEMENT USING MANAGED OBJECTS IN A
DIGITAL COMMUNICATIONS NETWORK

REQUEST FOR REHEARING PURSUANT TO 37 C.F.R. § 41.52

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.52(a)(1) and (a)(3), Appellant respectfully submits this Request for Rehearing in response to the Decision on Appeal dated November 22, 2005. Entry and favorable consideration of this Request for Rehearing is respectfully requested.

Summary of Claim Status

The claims *previously* stood rejected as follows:

Claims 1-3 and 5-10 stood rejected under 35 U.S.C. § 103(a) over Bennett et al. (US Patent No. 5,189,733) in view of Mishra (US Patent No. 6,339,587). Claim 4 stood rejected under 35 U.S.C. § 103(a) over Bennett et al. in view of Mishra and further in view of Finni (US Patent No. 5,941,978).

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In the Decision on Appeal, dated November 22, 2005, the Board indicated that the Examiner's rejections of claims 1-10 are not sustained. However, the Board entered a new ground of rejection against claim 1 in view of Bennett and M.P. Bosse et al. ("Bosse"), of record and discussed in Appellants' specification on page 2. As set forth on page 6 of the November 22, 2005 Decision on Appeal, the Board considered only independent claim 1 when entering the new ground of rejection.

REMARKS

Appellants respectfully submit that there are points believed to have been misapprehended or overlooked by the Board when rendering the new ground of rejection.

The Decision on Appeal alleges that, "one of ordinary skill in the art would be motivated to use Bennett's memory management system for devices implementing object oriented programming, in the object oriented SDH network controller taught by Bosse, for the purpose of making the greatest use of memory in the controller" (pg. 7 of Decision on Appeal). Further, the Decision on Appeal states that managed objects are similar to typical objects and Bosse identifies managed objects as being more specialized. Thus, the Decision on Appeal alleges that, "one of ordinary skill in the art would not be deterred from combining the teachings of Bennett and Bosse based upon these differences and would recognize that differences would not impact how the devices, on which the objects run, manage the memory allocated to the objects" (pg. 7 of Decision on Appeal).

Based on the foregoing, the Decision on Appeal alleges that Bennett's teaching of code objects being swapped out of a main memory to a hard disk, in order to free up memory, would

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be applicable to a controller which controls a network node using the concept of managed objects. Appellants respectfully traverse the alleged combination.

The concept of managed objects in a manager/agent relationship is well known. However, in all known implementations of managed objects, the managed objects are permanently contained in a main memory. Prior to the non-limiting embodiments of the present invention, Appellants submit that it was not known to "swap out" managed objects to free up space in a main memory.

A managed object is created when it is required. A managed object stores information on a certain managed resource and is therefore necessary to manage the resource. Appellants submit that the idea to remove existing managed objects from a main memory and store them in a database, and then read them back from the database when the object is required at an agent to process a request by a manager, is not a trivial matter, and would not have been suggested by the respective teachings of Bennett and Bosse.

The Bennett reference is concerned with the organization of a memory in a computer system. The reference is not concerned with the management of resources in a telecommunication network. In order to free memory in Bennett, one or more objects can be swapped out to a hard disk. Programs that provide object swapping employ a pointer in the memory as a surrogate for each suspended object. The pointer defines the physical address of its object. For code objects, such pointer is referred to as a "stub vector" (col. 1, line 57 to col. 2, line 5). Appellants submit that such swapping of objects to a hard disk is different from storing an object in a database. A database is generally a collection of data arranged into individual

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records and organized in a way that the records can easily be accessed, managed and updated. A database is hence, searchable. Therefore, no pointer or stub vector is required as a surrogate in the main memory.

Further, Appellants' submit that in a swapping system such as described in Bennett, it would not be feasible to store objects, managed or otherwise, in a database since this would dramatically affect the performance of the application.

Based on the foregoing, Appellants submit that one skilled in the art would not have been motivated to combine Bennett and Bosse in the manner set forth by the Decision on Appeal. Accordingly, Appellants submit that claim 1 is patentable over the alleged combination of the cited references.

Appellants submit that claims 2-6 are likewise patentable over the alleged combination of Bennett and Bosse for at least the reasons presented above. Further, Appellants submit that claims 7-10 are patentable over the alleged combination of Bennett and Bosse for at least analogous reasons to those presented above.

Further, in regard to the above, Appellants assume that the Board's new ground of rejection does not include the Mishra reference (which was previously used in combination with Bennett to reject claim 1). However, in the event that the Board intended to include Mishra in the new rejection of claim 1, Appellants note that the Board has not addressed Appellants arguments in the Appeal Brief and the Reply Brief that there is no motivation to combine the Bennett and Mishra references.

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For the above reasons, Appellants submit that the new ground of rejection of claim 1 under 35 U.S.C. § 103(a) in view of Bennett and Bosse should not be sustained.

Respectfully submitted,

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